

JUL 25 1947
FREE PRESS AND RELIGIOUS LIBERTY EXTRA

LIBERTY

A MAGAZINE OF RELIGIOUS FREEDOM

*The Complete Separation of
the Church and the
State*

*The Emancipation of Religion
from the Dogmatism of
Modern Science*

A Committee of the United States Senate

It must be apparent that to prohibit publications on one side, and circulation through the mail on the other, of any paper, on account of its religious, moral, or political character, rests on the same principle, and that each is equally an abridgment of the freedom of the press, and a violation of the Constitution.—“Senate Documents,” First Session, Twenty-fourth Congress, Vol. II.

United States Supreme Court

Liberty of circulating is as essential to that freedom as liberty of publishing; indeed, without the circulation, the publication would be of little value.—*United States Law Reports*, Vol. XCVI, p. 733.

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Washington, D. C.



Adapted Cartoon

AN ANTI-AMERICAN SAMSON
SHALL AMERICANS PERMIT THIS OVERTHROW?

Extensive religious combinations to effect a political object are, in the opinion of the committee, always dangerous. . . . All religious despotism commences by combination and influence; and when that influence begins to operate upon the political institutions of a country, the civil power soon bends under it; and the catastrophe of other nations furnishes an awful warning of the consequences.— Committee on the Post Office and Post Roads, United States Senate, Jan. 29, 1829.

LIBERTY

"Proclaim liberty throughout all the land unto all the inhabitants thereof." Lev. 25: 10.

VOL. XI

FIRST QUARTER, 1916—EXTRA

No. 2

Explanatory Note

THIS Free Press and Religious Liberty Extra deals with two press bills introduced into the House of Representatives by two New York Congressmen, who aim to establish a one-man censorship of the press, and thus to shackle the freedom of speech and of the press in the United States. This Extra also deals with the compulsory Sunday observance bills now pending before Congress.

Hearings are soon to be held before Congressional committees on these bills, and as prompt action is needed and the regular issue of the second quarter of LIBERTY does not come from the press till the middle of March, we are issuing this Extra, hoping that it will be given a nation-wide circulation.

If either of the bills introduced by Messrs. Fitzgerald and Siegel should become law, it would utterly destroy the freedom of the press in America, and would make the transportation of printed matter through the mails subject to the decision of one man, without giving the publishers any recourse to court pro-

ceedings, and would virtually establish a sectarian censorship. The Brooklyn *Tablet* (Roman Catholic) of Jan. 8, 1916, said:—

The only publications in this country that would come within the pale defined by Congressman Fitzgerald's bill are those which are attacking the Catholic Church.

The *Tablet* has only told the naked truth, which everybody knew all the time to be the truth, even before it was confessed by the *Tablet*.

This Extra is fairly bristling with valuable arguments and information; and just now, while this is a live national issue, you are urged to get all the signatures possible to the petitions on the last two pages of this Extra, and forward them to your Senators and Representatives in Congress.

The price of this Extra is \$1 per hundred, or \$8 per thousand. A million copies ought to be circulated during the present month. Address all orders to Liberty Magazine, Takoma Park, Washington, D. C.

Shall the private characters of men be left at [the] mercy [of irresponsible men]? The answer is NO. The construction I contend for, only renounces the summary and preventive jurisdiction of a single magistrate. It only exempts the editor from imprisonment, at the discretion of the magistrate, and guarantees to him the benefit of jury trial. It leaves him entirely amenable to the injured individual and the public for the injury which his peers shall pronounce to have arisen from his publications. There are not wanting many well-informed citizens who deprecate summary proceedings as hostile to the genius of the Constitution. If this be true in general, it is emphatically so when they are applied to violate or infringe the Constitutional freedom of the press.—Essays on "The Liberty of the Press," by Marcellus, 1804, p. 7.

Fettering Our Free Press

CLAUDE E. HOLMES

A Practical Question

AGAIN the people of the United States are confronted with the question, Shall freedom of the press and of speech be preserved, or shall this priceless boon be cravenly surrendered at the behest of its enemies? This is not an academic, but a practical question. It demands a prompt and emphatic answer, if our liberties are to be preserved.

Since the opening of the Sixty-fourth Congress, two bills have been introduced in the House of Representatives that vitally affect the freedom of the press. The first one, H. R. 491, introduced by Mr. Isaac Siegel of New York, is so revolutionary and drastic that there is little prospect of its being given any consideration by the committee to which it was referred. It is rightfully termed a "freak" bill. It reads as follows:—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever a complaint in writing shall be filed with the Postmaster-General that any publication making use of or being sent through the mails contains any article therein which tends to expose any race, creed, or religion to either hatred, contempt, ridicule, or obloquy, he shall forthwith cause an investigation to be made under his direction, and shall within twenty days after receipt of such complaint, if the facts contained therein are true, make an order forbidding the further use of the mails to any such publication; but nothing herein contained shall be deemed to prevent the Postmaster-General from restoring such use of the mails to any such publication whenever it shall be established to his satisfaction that the publication has ceased to print or publish such prohibited matter, and given him satisfactory assurances in writing that there will be no further repetition of the same.

The Fitzgerald Bill

The second measure, proposed by Mr. John J. Fitzgerald of New York, is a more dangerous one. It is moderate in its tone, which tends to hide its real character. It reads:—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall be established to the satisfaction of the Postmaster-General that any person is engaged, or represents himself as engaged, in the business of publishing any obscene or immoral books, pamphlets, pictures, prints, engravings, lithographs, photographs, or other publications, matter, or thing of an indecent, immoral, scurrilous character, and if such person shall, in the opinion of the Postmaster-General, endeavor to use the post office for the promotion of such business, it is hereby declared that no letter, packet, parcel, newspaper, book, or other thing sent or sought to be sent through the post office by or on behalf of or to or on behalf of such person shall be deemed mailable matter, and the Postmaster-General shall make the necessary rules and regulations to exclude such nonmailable matter from the mails.

Would Make the Postmaster-General Press Censor

Mr. Fitzgerald's bill would place an unwarranted power in the hands of one official, who is appointed and not elected. At the discretion of the Postmaster-General, any periodical could be practically suppressed if it was established to his "satisfaction" that it came under the provisions of this measure. A Postmaster-General, true to our American principles of liberty, would no doubt conserve the freedom of the press, even under Mr. Fitzgerald's bill; but it is extremely dangerous to assume that this office will always be filled by a fair-minded, liberty-

The truth is that such is the just estimation of the utility of the press that the founders of our Constitution would fain have exempted it from all control whatsoever; as, however, the great end of all government is to afford protection to persons, property, and reputation, even the press must yield to this object. It must yield to the superior right of obtaining redress through the Constitutional tribunal of a jury.—*Essays on "The Liberty of the Press,"* by Marcellus, 1804, p. 7.

True liberty of speech and of the press consists in being free to speak, write, and print, but being, as in the exercise of other liberties, responsible for the abuse of this liberty; and whether we have abused this liberty or not, must, like all other questions of right, be left to the decision of a court and jury. This is the universal test by which the exercise of all our rights must be tried.—“Liberty, of Speech and of the Press,” Alexander Addison, 1800, p. 14.

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loving man, whose decisions will always be wise and just. The thing is wrong in principle. How can one man decide what 100,000,000 people shall read? The impropriety of permitting the Post Office Department to assume a censorship over the press, was pointed out early in our history. The Postmaster-General in 1835, when importuned to bar certain papers from the mails, replied:—

Upon careful examination of the law, I am satisfied that the Postmaster-General has no legal authority to exclude newspapers from the mails, nor prohibit their carriage or delivery on account of their character or tendency, real or supposed. Probably it was not thought safe to confer on the head of an executive department a power over the press which might be perverted and abused.—*New York Evening Post*, Aug. 18, 1835.

How the Power Might be Abused

To clothe an official with arbitrary authority virtually to destroy a publication by denying it second-class mail privileges, is to strike down a fundamental principle of justice. The law provides that no one shall be deprived of property except by due process of law. To publish a newspaper ordinarily requires an investment of thousands of dollars. Under Mr. Fitzgerald's bill, a word from the Postmaster-General, and a whole business would be ruined. There is no appeal from his order, nor any compensation for the loss sustained.

Denies Jury Trial

A public hearing was granted on the bill introduced by Mr. Fitzgerald the previous session. At this time Mr. Finley,

a member of the Committee on the Post Office and Post Roads, inquired of Mr. Fitzgerald if he did not “think that there should be some appeal to the courts and that the courts should be allowed to settle and decide that issue?” In reply Mr. Fitzgerald said: “I am no more anxious to vest arbitrary power in any administrative officer than any other person, and I am sure that to give a man the right to have his rights determined in a judicial proceeding is perfectly proper, and I would be perfectly willing to have such a provision incorporated in this bill.”—*Report of Hearing*, pp. 11, 12.

After thus disclaiming any desire to place undue authority in the hands of one official and offering to incorporate in his bill a provision granting a trial for defendants, Mr. Fitzgerald introduces his bill again this session the same as last, entirely ignoring these vital points.

In his argument before the committee, Mr. Fitzgerald claimed that section 211 of the Penal Code enacted in 1909 would cover the literature he wished to have made nonmailable. He insisted that the Postmaster-General has the authority under this statute to bar these publications from the mails arbitrarily. And yet the two cases he cited in defense of his position were tried before a jury! (See Report of Hearing, p. 8.)

The Mails a Government Monopoly

The government has monopolized the mail service; therefore it should not be allowed to interfere with the transmission of any publication because of the senti-

The liberty of speech and press being of the first importance to mankind, ought to be guarded with the most jealous vigilance. No pretenses or excuses ought to be adduced by the government, or admitted by the people. The same duty which obliges the people to yield a prompt and willing obedience to constitutional laws, directs them to oppose every one of an opposite kind.—“An Inquiry Concerning the Liberty and Licentiousness of the Press,” by John Thompson, 1801, p. 30.

It has hitherto been the understanding in this country that no censorship can be established by law to decide in advance what may or may not be lawfully printed or published. Ours is a government of free speech and a free press. That is the cornerstone of free government.— Mayor Gaynor.

ments expressed therein. The Post Office Department acts as a carrier, conveying the mail for the American people. It has had and should have no legal right to inquire into the religious, moral, or political character of the matter to be conveyed, much less to decide whether or not it will deliver it. The department is under obligation to receive, guard, and promptly deliver to the consignee, every package, letter, or periodical which has been properly mailed. It is not within the province of the post-office officials to determine what the political or religious influence may be upon those who receive the matter carried.

Already Covered by Statute

There is, however, a federal statute that denies the privilege of the mails to obscene, lewd, filthy, and immoral literature, pictures, etc. These terms have been defined by the Supreme Courts as referring only to sexuality. Under this statute as thus defined, not only may all such matter be excluded from the mails, but any one mailing such matter may be prosecuted therefor in the federal courts, and if convicted, may be punished by both fine and imprisonment. But in all such cases the facts must be passed upon, not by one man, but by a jury of twelve men.

The Forces Behind This Legislation

To grasp the real purpose of this proposed legislation, it is necessary to study its history. The American Federation of Catholic Societies is the leader in this attack upon our free press. In championing such a movement the federation is systematically working to establish a definite Roman Catholic domination in

this country. Pope Leo XIII has infallibly declared that "it is quite unlawful to demand, to defend, or to grant unconditional freedom of thought, of speech, of writing, or of worship, as if these were so many rights given by nature to man."

—*"The Great Encyclical Letters of Pope Leo XIII," p. 161.*

In pursuance of this instruction, the federation has entered upon a campaign to remove from the public arena "books, papers, writings, and prints which outrage religious convictions of our [Catholic] citizens, and contain scurrilous and slanderous attacks upon faith."—*Resolution adopted in convention, 1910.*

Making It a Sectarian Issue

From an editorial in the *Morning Star* (Roman Catholic) of Jan. 30, 1915, we take the following paragraph relating to Mr. Fitzgerald's former bill:—

But now that a bill which will meet all requirements has been introduced into Congress by a gentleman brave enough to do it, we hope that the several Congressmen from this Catholic State, who owe their election to the suffrages of Catholic voters, will get over their scruples about the liberty of the press. . . . The vote on this bill is of interest to every Catholic in the land; and when the roster is called, we hope that Catholics will sit up and take note of all who vote for and against the bill. It is one of the most important bills introduced into Congress for many a day, and of vital interest to Catholics. So let societies and individuals flood Congress with letters, and let them not rest till it is made sure by Congressional action.

Roman Catholics are making the Fitzgerald bill, which advocates an absolute autocratic censorship of the press, purely a Roman Catholic measure before Congress. This is a bold threat to Congressmen that if they fail to vote for this

Freedom of speech and publication is guaranteed in the Constitution of the United States and in the constitutions of practically all the States. Unjustifiable speech or publication may be punished, but cannot be forbidden in advance.—*Harper's Weekly,*
Jan 23, 1915

There seem to be a few among us who wish us to retrace our steps, and resort to censorships again in advance of publication, and make it a crime to publish anything not permitted in advance by the censor. Do they know what they are doing? Do they know anything of the history and literature of the subject? Do they know that the censorships of past ages did immeasurably more harm than good? Do they even stop to think that such censorships now would do even more harm than they did in past ages, in comparison with what little good they might possibly do?

I do not believe the people of this country are ready to permit any censor to decide in advance what may be published for them to read. . . . Our laws forbid the publication of any libelous, obscene, indecent, immoral, or impure picture or reading matter. Is not that enough? If any one does this, he commits a criminal offense and may be punished therefor.—Mayor Gaynor.

measure, they will suffer the loss of the Catholic vote. This religious boycott is a characteristic Roman Catholic way of dealing with such questions. It is equivalent to saying to every Congressman, "You must vote to please Roman Catholics, or we will defeat you at the polls." Yet we are assured that the Roman Catholic Church is not in politics!

A careful examination of Catholic thought relative to this campaign discloses two reasons for this attack: First, many members of the Catholic Church are being alienated from that communion through contact with publications revealing the errors and abuses of that church; second, a large number of Catholics have met political defeat through the influence of non-Catholic periodicals.

The resolution quoted above, states its purpose to fight literature that opposes the Catholic Church. This was again expressed at the hearing on Mr. Fitzgerald's bill. Mr. Mayer said:—

It is the practice to use the mails to circulate scandalous and libelous articles; . . . it is a direct attack upon one particular religion, upon the Catholic Church. That, in my judgment, is the intent of these publications. There are, I understand, 16,000,000 Catholics in this country, and there are approximately 20,000 Catholic priests. I believe I voice their sentiments when I say they want protection against the slanderous and scurrilous articles that are circulated through the mails. . . . It is my particular religion that is attacked, and I feel it.

'The Catholic Church has met a severe repulse in its political activities recently.

Mr. O'Gorman, of the United States Senate, in a letter published in the Catholic *Tablet*, says that "fifty-three Democratic Congressmen were defeated either at the primaries or at the recent elections, and of this number it is said *forty were Catholics*, and their defeat is said to be due to the A. P. A. agitation."—*Brooklyn (N. Y.) Tablet*, Jan. 16, 1915.

It can be easily understood why Catholics are entering upon such an active campaign for keeping out of the mails all matter that reflects upon their "faith."

What Makes Literature Immoral?

Whether a publication is legally immoral or not depends upon the viewpoint. Anything that plainly tends to produce immorality would come under present federal law. But the mere exposure of immorality is not sufficient reason to suppress a publication.

Two cases relating to the circulation of obscene and immoral literature through the mails were in federal courts in January. Both resulted in a victory for the free press. The settlement of the last one, in which the *Menace* was involved, brought forth an interesting comment from the *Catholic Columbian* of Jan. 21, 1916:—

"The expected has happened, and the Missouri sheet has been declared by a jury in a federal court—'not guilty.' . . . One may well doubt whether a jury in any part of the land could be found that would do otherwise. The remedy lies in the hands of the national Postal

The only publications in this country that would come within the pale defined by Congressman Fitzgerald's bill are those which are attacking the Catholic Church.—The Brooklyn *Tablet* (Roman Catholic), Jan. 8, 1916, p. 1, col. 6.

All the opponents of the liberty of the press have sheltered themselves behind the specious veil of preserving the public peace. They say licentiousness must be suppressed. Dangerous opinions in politics and religions must be guarded against, otherwise the social order of society will be endangered. What, it may be asked, would have been the situation of mankind at this moment, had the subjects of religion and politics never been investigated? Orthodox and heterodox are words of very doubtful meaning. What is orthodox at Constantinople, is heterodox at Rome, and what is deemed sacred and indisputable by the conclave, is termed superstition at Geneva.—"An Inquiry Concerning the Liberty and Licentiousness of the Press," by John Thompson, p. 77, 1801.

Department." That is Rome's method — suppress what cannot be met by justice and argument.

What They Deem Scurrilous

Should non-Catholics accept the Roman Catholic definition of the word "scurrilous," it would mean the elimination of all controversy over Catholic dogmas, or unfavorable reference to them. We find an illustration of this in the *Bulletin of the American Federation of Catholic Societies* for January, 1913: "The Adventists, who recently convened at Sacramento, Cal., circulated a *scurrilous booklet* entitled 'Who Changed the Sabbath?'" A copy of this pamphlet is before me as I write. It is a clean, able discussion of the Sabbath question, dealing with it from a theological and historical standpoint.

The *Protestant Magazine* has for years been reviewing Roman Catholic claims. It has carried on its discussions in a dignified and scholarly manner. Even a Roman Catholic paper has declared it to be "far above the common anti-Catholic periodical." See *Catholic Citizen*, Jan. 15, 1916. Yet the *Protestant Magazine* and two others have been branded as "lying and scurrilous publications," by another Catholic paper. See *Catholic Columbian*, Aug. 18, 1911.

If such literature is to be denied circulation through the mails under the law proposed by Mr. Fitzgerald, then the First Amendment to the Constitution of

the United States is practically annulled. There can be no further freedom of discussion on religious matters in the press. Beyond question, the purpose of the whole movement is to suppress adverse criticism of the dogmas of Catholics.

A Nation-Wide Campaign by Catholics

The Catholic *Tablet*, which is published in Mr. Fitzgerald's district, gives an extended write-up of his bill in its issue of Jan. 8, 1916. Catholics were much disappointed because his bill introduced the last session failed to get out of committee. This year they are making "great efforts to see that it at least comes to a public reading and a vote." In order to secure this result, "a nation-wide campaign of letter writing, designed to let the members of Congress know the extent of the feeling in the failure of freeing the mails from filth, is planned. Form letters are now being drawn up, which will be distributed through various channels until they reach all sections of the country. The letters are to be sent to Congressmen both from individuals and from Catholic organizations."

Rome has publicly thrown down the gauntlet. The challenge must be met squarely. A failure to do this will mean a victory for Catholicism. Let Rome's nation-wide campaign be more than duplicated. Let American patriots inform their Congressmen that a free press must be maintained at all hazards.

Are we to stand meekly by while the fetters are being put on us? or shall we organize to manfully oppose . . . all these unholy attempts at Puritanizing the United States, to defend the liberties guaranteed by the Constitution, and to uphold at all hazards the cherished traditions handed down to us by the founders of the Republic? . . . Every observing man can see that American liberty is in distress.—Hon. Richard Bartholdt, in Congressional Record, July 9, 1913.

Congress and Sunday Legislation

WILL the Sixty-fourth Congress be true to American principles of government, and refuse, as its predecessors have done, to enact questionable Sunday legislation? or will it violate the wise precedents of the past, and enter upon the dangerous and forbidden path of religious and ecclesiastical controversy?

Already one Sunday bill has been introduced in both House and Senate, and it is known that another, more general in its scope and more drastic in its provisions, has been prepared, and is to be introduced shortly.

The bill referred to as already before Congress reads as follows:—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this Act it shall be unlawful for any person to open or allow to be opened or carry on business in any barber shop or place where the business of shaving, hair cutting, shampooing, or the like shall be conducted on Sunday in the District of Columbia; and any person or persons who shall violate the provisions of this Act upon conviction shall pay a fine of not exceeding \$20, or in default thereof be imprisoned not exceeding sixty days, and for a second offense shall be imprisoned not exceeding sixty days.

It may be thought by some that such measures have small chance of favorable consideration at a time when so many matters of surpassing moment are demanding attention, but this is a mistake. It is at exactly such a time as this, when the attention of the leading members of Congress is so fully engrossed with larger matters, that objectionable legislation, relative to minor subjects, is most likely to be enacted.

It is always by insidious steps, stealthy and silent approaches, that liberty is be-

trayed, overborne, and destroyed in any nation. Only in ever ceaseless watchfulness is there safety. The maxim, "Eternal vigilance is the price of liberty," is simply the sum of the lessons of human history.

Our Government Not Religious in Character

Our forefathers were jealous for their liberties, and they were especially so of the possible acts of the national legislature, hence the First Amendment to the Constitution:—

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

That the words which we have italicized mean more than that there shall be no legally established church, is evident not only from the language employed,—“Congress shall make no law respecting an establishment of religion,” etc.,—but from the understanding of the men who were active in public life when the Constitution was adopted, and who were therefore in a position to know first-hand the intent of its framers.

The treaty with Tripoli, communicated to the Senate May 26, 1797, set forth among other things that “the government of the United States of America is not, in any sense, founded on the Christian religion.”¹

What the Amendment Forbids

Mr. Madison, “the father of the Constitution,” in his celebrated “Memorial

¹ For verification of treaty and for facts concerning it, see “American State Papers,” Class I, Foreign Relations, Vol. II, p. 18; “United States Statutes at Large,” Vol. VIII, Foreign Treaties, p. 154.

Making it a misdemeanor to keep open and conduct a barber shop or to work as a barber on Sundays and other holidays is an undue restraint of personal liberty, and is special legislation, based upon an arbitrary classification, and not a proper exercise of the police power, and is unconstitutional and void.—Decision of Supreme Court of California, April 17, 1896.

I have due regard for the observance of the Sabbath, and I believe it should be observed, but I do not believe in legislation compelling one to observe it. . . . Very soon after we became a nation and had organized government, we abandoned that kind of legislation. It was the legislation that resulted in whipping people at the tail of the cart, placing them in stocks, branding them on the hands, etc. That was this kind of legislation under which some person or coterie of persons undertook to set themselves up as the censors of the morals of the people. I thought that age had passed. I never expected to see it revived, and I never expected to see an attempt made in the Congress of the United States to prescribe rules that are intended, I presume, to supplement the ten commandments.—Ex-Senator Heyburn, in Congressional Record, May 26, 1911.

and Remonstrance," said: "Who does not see that the same authority which can establish Christianity, in exclusion of all other religions, may establish, with the same ease, any particular sect of Christians, to the exclusion of all other sects?"²

"The greater includes the lesser;" and as the First Amendment was designed to prohibit the legal establishment of any religion, even the Christian religion, or the regulation by law of religious worship, even of Christian worship; so, too, it must forbid not only the establishment of any sect of any religion, even of the Christian religion, but also the imposition upon anybody of the observance of any of the institutions, not only of the Christian religion but of any religion; for the words of the Amendment are, "Congress shall make no law respecting an establishment of religion, or *prohibiting the free exercise thereof*." That which is imposed or required as a duty cannot be said to be freely exercised. One is not "free" to do that which he must do; that which is done of necessity cannot be properly spoken of as being of choice.

That this is not a forced nor technical conclusion is evident from the fact that it is the view uniformly taken by both legislators and judges. In his "Constitutional Limitations" (chap. 13, par. 1,

fifth edition), Judge Cooley declares that the American constitutions "have not established religious toleration merely, but religious equality; in that particular, being far in advance not only of the mother country, but also of much of the colonial legislation, which, though more liberal than that of other civilized countries, nevertheless exhibited features of discrimination based upon religious beliefs or professions."

Sunday Mail Report of 1829

Jan. 19, 1829, Hon. Richard M. Johnson, of Kentucky, chairman of the Senate Committee on the Post Office and Post Roads, to which had been submitted a number of petitions praying that Sunday mail service be discontinued, submitted a report in behalf of the committee, which report was concurred in by the Senate. The position taken in this report was:—

The proper object of government is to protect all persons in the enjoyment of their religious as well as civil rights, and not to determine for any whether they shall esteem one day above another, or esteem all days alike holy. . . .

Our government is a civil, and not a religious, institution. Our Constitution recognizes in every person the right to choose his own religion, and to enjoy it freely without molestation. . . .

Among all the religious persecutions with which almost every page of modern history is stained, no victim ever suffered but for the violation of what government denominated the law of God.—"American State Papers," Class VII, p. 225, et seq.

² See "Writings of James Madison," published by order of Congress (Philadelphia, 1865), Vol. I, p. 162, et seq.

Charles Spurgeon said: "I am ashamed of some Christians because they have so much dependence on Parliament and the law of the land. Much good may Parliament ever do to true religion, except by mistake. As to getting the law of the land to touch our religion, we earnestly cry, 'Hands off! leave us alone!' Your Sunday bills and all other forms of act-of-Parliament religion seem to me to be all wrong. Give us a fair field and no favor, and our faith has no cause to fear. Christ wants no help from Cæsar."

How, it may be asked, is the health, comfort, safety, or welfare of society to be injuriously affected by keeping open a barber shop on Sunday? It is a matter of common observation that the barber business as carried on in this State [Illinois], is both quiet and orderly. . . . Moreover, if the merchant, the grocer, the butcher, the druggist, and those engaged in other trades and callings, are allowed to open their places of business and carry on their respective avocations during seven days of the week, upon what principle can it be held that a person who may be engaged in the business of barbership may not do the same thing? Why should a discrimination be made against that calling, and that alone?— Illinois Supreme Court Decision on Unconstitutionality of Sunday Laws, Illinois Reports 161, pp. 296, 309.

The Same Principle Involved Now

It is true that just now Congress is not asked to suspend the carrying of the mails on Sunday, but the principle involved is exactly the same. The demand now made is that certain work be prohibited on Sunday in the District of Columbia. But why prohibit? Is it because there is anything wrong with the work *per se*?— By no means; the only reason that exists or that can be assigned is the fact of the religious character of the day. Some people want to rest and worship upon that day, therefore others of the same trade shall not work!

The measures so proposed are only the thin edge of the wedge, and, in the words of Hon. Richard M. Johnson, *If the principle be once "admitted, it may be justly apprehended that the future measures of the government will be strongly marked, if not eventually controlled, by the same influence."* For "*if the principle is once established that religion, or religious observances, shall be interwoven with our legislative acts, we must pursue it to its ultimatum.*"

The Nature of Civil Holidays

It may be said, however, that the ground and object of the proposed legislation is not religious, but civil; and that to forbid labor or business within certain hours and upon certain days, is only a legitimate exercise of the police powers of the government. But let us not assume that which is sadly in need of proof. We have various legal holidays

— days that are for legal purposes *dies non*; but nobody is forbidden to sell goods or to perform labor upon such days. The barber may keep open shop all day on Thanksgiving, Christmas, Fourth of July, etc., if he wishes. Why deny him the same liberty on Sunday? There is no reason, aside from its religious character and the customs growing out of the supposed sacredness that in the minds of many attaches to the day.

Clearly this is a field that the Congress of the United States should not enter. Such a measure has not only the religious feature necessarily present in every proposed law to prohibit Sunday labor or business, but it has in it another feature little less objectionable, namely, class legislation. Speaking to a similar question some years ago, Senator Bailey of Texas said:—

I am not disposed to allow any class of people to come to the legislative assemblies of the country to settle controversies between them and their employees. . . . So far as I am concerned, I am not disposed to allow any class to come and ask for a law that interferes with some man who wants to pursue his calling, simply because some other man does not want to pursue it.— *Congressional Record, Jan. 26, 1910.*

Will the Sixty-Fourth Congress Prove True to Principle?

Every Congress has refused such legislation in the past. It is to be hoped that the Sixty-fourth Congress will follow the excellent example of its predecessors. The legislation asked for is not for the purpose of safeguarding natural rights,

Any proposition to pass Sunday legislation in the District of Columbia is a direct violation of the positive prohibitions of the Constitution, against the spirit of our institutions, and against the policy heretofore maintained by the federal government.—The Journal (official organ of Knights of Labor).

Chief Justice Terry of the supreme court of California, in declaring enforced Sunday observance unconstitutional, said: "The enforced observance of a day held sacred by one of the sects, is a discrimination in favor of that sect, and a violation of the freedom of the others. . . . Considered as a municipal regulation, the legislature has no right to forbid or enjoin the lawful pursuit of a lawful occupation on one day of the week, any more than it can forbid it altogether."—9 California, 502.

but for the purpose of curtailing them for the mere gratification of a class, which is contrary to the principles that should govern wise statesmanship. It is not the province of Congress either to restrict any natural right, or to create special privileges for any class. The principle was thus stated by Thomas Jefferson, June 7, 1816, in a letter to Francis W. Gilmer:—

Our legislators are not sufficiently apprised of the rightful limits of their power; that their true office is to declare and enforce only our natural rights and duties, and to take none of them from us. No man has a natural right to commit aggression on the equal rights of another; and this is all from which the laws ought to restrain him; every man is under the natural duty of contributing to the necessities of the society; and this is all the laws should enforce on him; and, no man having a natural right to be the judge between himself and another, it is his natural duty to submit to the umpirage of an impartial third. When the laws have declared and enforced all this, they have fulfilled their functions, and the idea is quite unfounded, that on entering into society we give up any natural right.

Will the Sixty-fourth Congress prove true to the principles so wisely and firmly established by the founders of our government, and consistently adhered to in the past?

C. P. B.

* * *

I HONOR the man who is ready to sink Half his present repute for the freedom to think, And when he has thought, be his cause strong or weak, Will risk tother half for the freedom to speak, Caring not for what vengeance the mob has in store, Let that mob be the upper ten thousand or lower.

—James Russell Lowell.

Important Notice!

To All Lovers of Liberty



Please read carefully the "Petitions to Congress" on the opposite page and the last page. Fill in the blank spaces, start the list with your own name, and secure as many other signatures as possible.

If there are not enough lines on these petition blanks for signatures, paste one or more sheets of white paper at the bottom, after cutting the petitions out of the magazine.

Send petition S. 645 to one of the Senators from your State in Congress, the other two petitions send to one of your Representatives in the House. Address in either case in care of the Capitol, Washington, D. C. Remember this Extra can be secured at \$1 per hundred and \$8 per thousand copies. If you are in need of further information to assist you in prosecuting this work, address

Editor Liberty Magazine,
Takoma Park,
Washington, D. C.

The civil government has no more right to compel a man to surrender one seventh of his time to the state than it has to compel him to yield one tenth of his income. Both are divine requirements for the sake of sustaining religion and its worship, with which civil government can have nothing to do by right.—EDITOR.

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